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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,134	11/30/2000	Norbert Wolters	8874-US	2924

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Kevin J. Moriarty
Patent Department
DEERE & COMPANY
One John Deere Place
Moline, IL 61265-8098

EXAMINER

KOVACS, ARPAD F

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 02/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/727,134

Applicant(s)
Wolters et al.

Examiner
Árpád Fábíán Kovács

Art Unit
3671



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 30, 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2,3,5 20) ☐ Other:

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DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. In this case U.S. Patent No. 3333405 was not cited in the information disclosure statement, but listed or cited in the specification.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "the lower feeding element ... provided with a lower vertical axis ... shifted forward with respect to the upper vertical axis" (claim 14, line 3-4); "the upper feeding element has fewer fingers than the lower feeding element" (claim 16, lines 1-2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Specification

3. The disclosure is objected to because of the following informalities: spelling errors as follows: "provider" (pg 2, ln 4); "trough" (pg 9, ln 3).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim(s) 1, 3-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 & 20 recite the limitation "the effective length" in line 6 & 7 respectively. There is insufficient antecedent basis for this limitation in the claim. It is unclear what would constitute the "effective length" of the picking device.

In re claim 4, it is unclear how the gaps are capable of "to grasp plant stalks" (line 3); also, line 4 the recitation of "as the feeding element" appears to be incomplete.

In re claim 6, whenever an element is recited the second time it should be preceded by the word -- the -- or -- said --, therefore the same recitation of "an upper feeding element" appears to be already recited in claim 5, line 2; therefore, the claim as recited is unclear and indefinite.

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In re claim 14, in view of the disclosure the lower vertical axis is not shifted forward; therefore, the claim is unclear as to where the lower vertical axis is located in view of the disclosure/drawings.

In re claim 20, whenever an element is recited the second time it should be preceded by the word -- the -- or -- said --, therefore the same recitation of "a picking device" appears to be already recited in line 1; therefore, the claim as recited is unclear and indefinite.

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Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim(s) 1-4, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (5911673).

Johnson discloses a harvester having feeding & picking device comprising:

in re independent claims 1, 2 & 20, rotating feeding element or gatherer (30) rotated about a vertical axis, the rotating feeding element grasps plant stalks and direct the plant stalks to & transport and support the plant throughout a picking device (along stalk rolls ref 40) which pull the corn stalks so the ears or the useable parts from the plant stalks are removed or being processed (col. 3, lines 51-58);

the device further comprising a snapping channel or stripper plate (ref 50), wherein the feeding device is above the plate (see fig 3) therefore covers the snapping channel or plate (in re cl. 3);

the feeding element comprising number of fingers (ref 32; col 3, line 33), and as shown on fig 3, there is a gap between fingers, where the stalk is positioned & pass over the channel or plate (in re cl. 4);

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as viewed in fig 2, a symmetrical line taken for example at the middle of the header, there are feeding and picking devices symmetrically arranged with respect to each other about this line (in re cl. 21).

Allowable Subject Matter

8. Claims 5-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Herron et al., Becker, Wuebbels et al., Nagy et al., Copley et al., Caron, Sousek, Taylor, Decoene, Dewey Jr., Fritz et al., Wallenfang et al., Bulin, Ashton et al., Williams, Greiner et al show closely related arts to applicant's invention.

Any inquiry concerning this communication should be directed to Árpád Fábián Kovács at telephone number (703) 308-5897, or in my absence contact Thomas B. Will whose telephone number is (703) 308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for the Group is (703) 305-3597.



Arpad Fabian Kovacs
Patent Examiner
GROUP 3671

áfk/ÁFK
February 4, 2002